

REMARKS / ARGUMENTS

Claims 1-6, 9-13, 32-39, 41-42, 44-48, 62, 69-72 and 74-76 are pending in the present application. Claims 1-6, 9-13 and 32-38 were withdrawn from consideration. Claims 39, 62 and 69 are independent.

Claims 39, 41-32, 44-46, 48, 62, 69-72 and 74-76 were rejected as being obvious over Hundertmark et al. (U.S. Patent No. 5,643,296) as evidenced by Milo et al (U.S. Patent No. 5,429,136).

Claim 47 was rejected as being unpatentable over Hundertmark et al. in view of Patterson et al (U.S. Patent No. 5,941,869).

Claims 39, 41-42, 44-48, 62, 69-72 and 74-76 were provisionally rejected as being unpatentable over claims 19-24 of copending Application No. 10/421,979, claims 1-15 of copending Application No. 10/288,581, claims 46-69 of copending Application No. 10/288,559 and claims 1-11 of copending Application No. 10/288,582. Applicant shall address this provisional rejection upon allowance of a claim in the present application.

Discussion

Applicant submits that amended independent claim 39 is allowable over Hundertmark in view of Milo since neither Hundertmark nor Milo discloses or suggests “deflecting a distal portion of the catheter relative to a proximal portion of the catheter to expose the tissue debulking device through a cutting window, the deflecting step being carried out by sliding the tissue debulking device against a cam surface” and debulking the body lumen by “advancing the catheter in the body lumen to move the rotating tissue debulking device and cutting window through material in the body lumen during the deflecting step” which is not disclosed or suggested by Hundertmark and Milo.

Hundertmark is directed to a catheter which is not advanced during debulking as claimed. The catheter of Hundertmark is stationary during cutting and Applicant submits that it would not have been obvious to move the catheter of Hundertmark for the following reasons. The catheter is anchored within the vessel using a balloon and nowhere does Hundertmark disclose or suggest moving the cutting element and opening as claimed. Inflation of the balloon is essential for the operation of Hundertmark since inflation of the balloon not only fixes the position of the catheter but also moves tissue into the cutting window. If the balloon were not inflated it is unclear how much, if any, tissue would enter the window for cutting and removal.

Amended independent claim 39 is also allowable over Hundertmark and Milo since the references do not disclose or suggest the deflecting step being carried out by “sliding the tissue debulking device against a cam surface to expose the tissue debulking device through the cutting window.” Hundertmark does not deflect the catheter in the claimed manner nor does Hundertmark disclose or suggest exposing the debulking device relative to the cutting window as claimed.

Hundertmark does not expose the cutting element through the window and, in fact, Applicant submits that Hundertmark explicitly teaches away from exposing the cutting element. Hundertmark prevents exposure of the cutting element and specifically asserts that outwardly extending cutting blades are unwieldy and generally undesirable (col. 2, lines 6-7). Hundertmark specifically provides guidance structures to prevent exposure of the cutting element through the window and, as such, clearly teaches away from exposing the cutting element as claimed.

Amended independent claims 69 and 72 are allowable over Hundertmark and Milo for essentially the same reasons that claim 39 distinguishes over the art, namely, that Hundertmark and Milo do not disclose or suggest “exposing the cutter by moving the cutter to the exposed position” and “advancing the debulking catheter in a distal direction” to remove material from the blood flow lumen. Hundertmark does not disclose or suggest advancing the catheter as claimed nor does Hundertmark disclose or suggest

exposing the cutter as claimed and Applicant submits that Hundertmark teaches away from the "exposing" and "advancing" steps for the reasons described above in connection with claim 39.

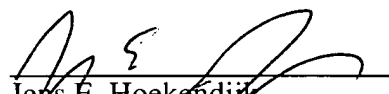
Dependent claims 42, 44-48, 72 and 74-76 are allowable since they depend from allowable independent claims and because they recite independently patentable features.

CONCLUSION

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-412-3322.

Respectfully submitted,

December 24, 2007
Date


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